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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,087	11/13/2003	Satoru Watanabe	Q77611	7269
23373	7590	07/27/2005		EXAMINER
SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			GARBER, CHARLES D	
			ART UNIT	PAPER NUMBER
			2856	

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/706,087	WATANABE ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Charles D. Garber	2856

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 05 July 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-12 and 15-18 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,6,7,12, 15-18 is/are rejected.
- 7) Claim(s) 2-5 and 8-11 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### ***Response to Arguments***

Applicant's arguments filed 07/05/2005 have been fully considered but they are not persuasive.

Applicant argues Cook is not concerned with raising the pressure in the fuel tank. Examiner does not agree. Cook recites in claim 1 "detecting leakage from a portion of the canister purge systems, **which portion includes said canister and tank**" [emphasis added]. Applicant also argues Cook does not show any pressure connection between the tank 18 and the blower 30. Examiner directs Applicants attention to a fluid passage shown in figure 1 connecting canister 14 to tank 18 via sensor 28

Applicant further argues Distelhoff is "wholly inapplicable to the present invention" because the present invention (and Cook) are directed to increasing the pressure in the tank for leak testing and Distelhoff is directed to reducing the pressure in the tank for testing. Examiner considers Distelhoff is applicable because the advantage of locating the pump inside the tank is not related to whether the leak test is based on increasing or reducing the pressure (which are both well known) but to reducing the expensive laying of lines. This advantage would be realized whether the test is based on increasing or reducing the pressure.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1, 6, 7, 12 and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cook et al. (US Patent 5,297,529) in view of Distelhoff et al. (US Patent Application 2002/018604).

Cook discloses fuel tank 18, canister 14, purge solenoid 12 supplying absorbed vapors from canister to engine intake 16 as shown figure 1 "under conditions conducive to purging (e.g. predetermined), blower motor 30 which is pressurizing device that raises the internal pressure in the fuel tank and in the purge system in general, pressure sensor 28 that detects internal pressure, engine computer 22 that diagnoses leakage based on pressure and time (column 5 lines 25-40).

However, the blower or pump is not mounted in the tank.

Distelhoff teaches motor 3 and compressor 4 (collectively a pump) mounted inside fuel tank 1. The compressor may be used to regulate pressure used for leak testing the evaporative space (paragraph 0008).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to mount the pump inside the tank so “the expensive laying of lines between the fuel tank” and the pumping device may be avoided. (paragraph 0013).

As for claims 15 and 17, the fluid passages shown in figure 1 connecting the blower to the canister and the canister to the tank via the pressure sensor couples the blower to the tank.

As for claims 16 and 18, Distelhoff teaches the pump “disposed inside the fuel tank” but not expressly mounted to the wall of the tank. Examiner, however, takes Official Notice that mounting a pump to a tank wall is widely known in the art and one having ordinary skill in the art at the time the invention was made would have known to mount a pump disposed inside a tank to its wall in order to secure it from movement caused by inertial loads and sloshing fuel which might otherwise damage power and fluid connections.

#### ***Allowable Subject Matter***

Claims 2-5, 8-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles D. Garber whose telephone number is (571) 272-2194. The examiner can normally be reached on 6:30 a.m. to 3:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

cdg



CHARLES GARBER  
PRIMARY EXAMINER